

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GEORGE BARNEY, Individually and
on behalf of all others similarly
situated,

No. 2:18-cv-10725-TJH(AFMx)

CLASS ACTION

**ORDER AND FINAL
JUDGMENT [96] [JS-6]**

Hon. Terry J. Hatter, Jr.

NOVA LIFESTYLE, INC., THANH
H. LAM, YA MING WONG,
JEFFERY CHUANG, and YUEN
CHING HO,

Defendants.

1 On October 6, 2023, Plaintiffs filed their Motion for Final Approval of
2 Settlement, Plan of Allocation, and Final Certification of Settlement Class (the
3 “Final Approval Motion”) (Dkt. No. 96). The Court took the Final Approval
4 Motion under submission without a hearing.

5 The Final Approval Motion asks the Court to determine: (1) whether the
6 terms and conditions of the Renewed Stipulation of Settlement dated March 24,
7 2023 (the “Stipulation”) are fair, reasonable, and adequate for the settlement of all
8 claims asserted by the Settlement Class against Settling Defendants (as defined in
9 the Stipulation), including the release of the Released Claims against the Released
10 Parties, and should be approved; (2) whether judgment should be entered
11 dismissing the Action with prejudice; (3) whether to approve the proposed Plan of
12 Allocation as a fair and reasonable method to allocate the Net Settlement Fund
13 among Settlement Class Members; (4) whether and in what amount to award Lead
14 Counsel fees and reimbursement of expenses; and (5) whether and in what amount
15 to award Lead Plaintiffs.

16 The Court having considered all matters submitted to it; and

17 It appearing in the record that the Postcard Notice substantially in the form
18 approved by the Court in the Court’s Order Granting Motion for Preliminary
19 Approval of Class Action Settlement, dated July 10, 2023 (“Preliminary Approval
20 Order”) was mailed to all reasonably identifiable Settlement Class Members and
21 the Long Notice was posted to the website of the Claims Administrator, both in
22 accordance with the Preliminary Approval Order and the specifications of the
23 Court; and

24 It appearing in the record that the links to the webpage hosting the Long
25 Notice and Proof of Claim substantially in the form approved by the Court in the
26 Preliminary Approval Order were emailed to identifiable Settlement Class
27 Members when an email address was provided to the Claims Administrator in
28

1 accordance with the Preliminary Approval Order and the specifications of the
2 Court; and

3 It appearing in the record that the Summary Notice substantially in the form
4 approved by the Court in the Preliminary Approval Order was published
5 electronically once on the *GlobeNewswire* and in print once in the *Investor's*
6 *Business Daily*;

7 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
8 DECREED THAT:

9 1. This Order and Judgment incorporates by reference the definitions in
10 the Stipulation, and all capitalized terms used herein shall have the same meanings
11 as set forth therein.

12 2. The Court has jurisdiction over the subject matter of the Action, Lead
13 Plaintiffs, all Settlement Class Members, and Settling Defendants.

14 3. The Court finds that, for settlement purposes only, the prerequisites
15 for a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil
16 Procedure have been satisfied in that:

- 17 (a) the number of Settlement Class Members is so numerous that
18 joinder of all members thereof is impracticable;
- 19 (b) there are questions of law and fact common to the Settlement
20 Class;
- 21 (c) Lead Plaintiffs' claims are typical of the claims of the
22 Settlement Class they seek to represent;
- 23 (d) Lead Plaintiffs and Lead Counsel fairly and adequately
24 represent the interests of the Settlement Class;
- 25 (e) questions of law and fact common to the members of the
26 Settlement Class predominate over any questions affecting
27 only individual members of the Settlement Class; and

(f) a class action is superior to other available methods for the fair and efficient adjudication of this Action, considering;

- i. the interests of the Settlement Class Members in individually controlling the prosecution of the separate actions;
- ii. the extent and nature of any litigation concerning the controversy already commenced by Settlement Class Members;
- iii. the desirability or undesirability of concentrating the litigation of these claims in this particular forum; and
- iv. the difficulties likely to be encountered in the management of the class action.

The Settlement Class is being certified for settlement purposes only.

14 4. The Court hereby finally certifies this action as a class action for
15 purposes of the Settlement only, pursuant to Rule 23(a) and (b)(3) of the Federal
16 Rules of Civil Procedure, on behalf of all persons and entities who purchased
17 publicly traded Nova common stock from December 3, 2015 through December
18 20, 2018, both dates inclusive, and were damaged thereby. Excluded from the
19 Settlement Class are the following: Defendants; the officers, directors, and
20 affiliates of Nova, at all relevant times; Nova's employee retirement or benefit
21 plan(s) and their participants or beneficiaries to the extent they purchased or
22 acquired Nova stock through any such plan(s); any entity in which Defendants
23 have or had controlling interest; immediate family members of any excluded
24 person; and the legal representatives, heirs, successors, or assigns of any excluded
25 person or entity.

26 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for the
27 purposes of this Settlement only, Lead Plaintiffs are certified as the class

1 representatives on behalf of the Settlement Class (“Class Representatives”) and
2 Lead Counsel previously selected by Lead Plaintiffs and appointed by the Court is
3 hereby appointed as Class Counsel for the Settlement Class (“Class Counsel”).

4 6. In accordance with the Court’s Preliminary Approval Order, the
5 Court hereby finds that the forms and methods of notifying the Settlement Class
6 of the Settlement and its terms and conditions met the requirements of due
7 process, Rule 23 of the Federal Rules of Civil Procedure, and Section 21D(a)(7)
8 of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by
9 the Private Securities Litigation Reform Act of 1995; constituted the best notice
10 practicable under the circumstances; and constituted due and sufficient notice of
11 these proceedings and the matters set forth herein, including the Settlement and
12 Plan of Allocation, to all persons and entities entitled to such notice. No
13 Settlement Class Member is relieved from the terms and conditions of the
14 Settlement, including the releases provided for in the Stipulation, based upon the
15 contention or proof that such Settlement Class Member failed to receive actual or
16 adequate notice. A full opportunity has been offered to the Settlement Class
17 Members to object to the proposed Settlement. The Court further finds that the
18 notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully
19 discharged. Thus, it is hereby determined that all Settlement Class Members are
20 bound by this Order and Judgment.

21 7. The Settlement is approved as fair, reasonable, and adequate under
22 Rule 23 of the Federal Rules of Civil Procedure. This Court further finds that the
23 Settlement set forth in the Stipulation is the result of good faith, arm’s-length
24 negotiations with a well-respected mediator and between experienced counsel
25 representing the interests of Class Representatives, Settlement Class Members,
26 and Settling Defendants. The Parties are directed to consummate the Settlement
27 in accordance with the terms and provisions of the Stipulation.

28

1 8. The Action and all claims contained therein, as well as the Released
2 Claims, are dismissed with prejudice as against all Defendants and the Released
3 Parties. The Parties are to bear their own costs, except as otherwise provided in
4 the Stipulation.

5 9. The Releasing Plaintiff Parties, on behalf of themselves, their
6 successors and assigns, and any other Person claiming (now or in the future)
7 through or on behalf of them, regardless of whether any such Releasing Plaintiff
8 Party ever seeks or obtains by any means, including without limitation by
9 submitting a Proof of Claim and Release Form, any disbursement from the
10 Settlement Fund, shall be deemed to have, and by operation of this Order and
11 Judgment shall have, fully, finally, and forever released, relinquished, and
12 discharged all Released Plaintiffs' Claims against the Released Defendant Parties.
13 The Releasing Plaintiff Parties shall be deemed to have, and by operation of this
14 Order and Judgment shall have, covenanted not to sue the Released Defendant
15 Parties with respect to any and all Released Plaintiffs' Claims in any forum and in
16 any capacity. The Releasing Plaintiff Parties shall be and hereby are permanently
17 barred and enjoined from asserting, commencing, prosecuting, instituting,
18 assisting, instigating, or in any way participating in the commencement or
19 prosecution of any action or other proceeding, in any forum, asserting any
20 Released Plaintiffs' Claim, in any capacity, against any of the Released Defendant
21 Parties, including Defense Counsel and the Insurers. Nothing contained herein
22 shall, however, bar the Releasing Plaintiff Parties from bringing any action or
23 claim to enforce the terms of the Stipulation or this Order and Judgment.

24 10. Settling Defendants, on behalf of themselves and their Related
25 Parties, shall be deemed to have, and by operation of this Judgment shall have,
26 fully, finally, and forever released, relinquished, and discharged Class
27 Representatives, Settlement Class Members, Class Counsel, and their respective
28

1 Related Parties from all Defendants' Released Claims and shall be permanently
2 enjoined from prosecuting the Defendants' Released Claims against Class
3 Representatives, Settlement Class Members, Class Counsel, and their respective
4 Related Parties. Nothing contained herein shall, however, bar the Settling
5 Defendants or their Related Parties from bringing any action or claim to enforce
6 the terms of the Stipulation or this Order and Judgment.

7 11. To the fullest extent permitted by law, all Persons shall be
8 permanently enjoined, barred, and restrained from bringing, commencing,
9 prosecuting, or asserting any claims, actions, or causes of action for contribution,
10 indemnity or otherwise against any of the Released Parties seeking as damages or
11 otherwise the recovery of all or any part of any liability, judgment, or settlement
12 that they pay or are obligated to pay or agree to pay to the Settlement Class or any
13 Settlement Class Member arising out of, relating to, or concerning such Persons'
14 participation in any acts, facts, statements, or omissions that were or could have
15 been alleged in the Actions, whether arising under state, federal, or foreign law as
16 claims, cross-claims, counterclaims, third-party claims, or otherwise, in the Court
17 or any other federal, state, or foreign court, or in any arbitration proceeding,
18 administrative agency proceeding, tribunal, or any other proceeding or forum.
19 Further, nothing in the Stipulation or this Order and Judgment shall apply to bar or
20 otherwise affect any claim for insurance coverage by any Settling Defendant.

21 12. The Court hereby finds that the proposed Plan of Allocation is a fair
22 and reasonable method to allocate the Net Settlement Fund among Settlement
23 Class Members, and Class Counsel and the Claims Administrator are directed to
24 administer the Plan of Allocation in accordance with its terms and the terms of the
25 Stipulation.

26

27

28

13. The Court finds that the Parties and their counsel have complied with all requirements of Rule 11 of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995 as to all proceedings herein.

14. Neither this Order and Judgment, the Stipulation (nor the Settlement contained therein), nor any of its terms and provisions, nor any of the negotiations, documents or proceedings connected with them:

- (a) is or may be deemed to be, or may be used as an admission, concession, or evidence of, the validity or invalidity of any Released Claims, the accuracy or inaccuracy of any fact alleged by Class Representatives, the sufficiency or deficiency of any defense that has been or could have been asserted in the Actions, or of any wrongdoing, liability, negligence, or fault of Defendants, the Released Parties, or each or any of them;
- (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or misrepresentation or omission with respect to any statement or written document attributed to, approved, or made by Defendants or any other Released Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal;
- (c) is or may be deemed to be or shall be used, offered, or received against the Parties, Defendants or other Released Parties, or each or any of them, as an admission, concession, or evidence of the validity or invalidity of the Released Claims, the infirmity or strength of any claim raised in the Actions, the truth or falsity of any fact alleged by Class Representatives, the Settlement Class, or the availability or lack of availability of meritorious defenses to the claims raised in the Actions;

1 (d) is or may be deemed to be or shall be construed as or received
2 in evidence as an admission or concession against Settling
3 Defendants, or the Released Parties, or each or any of them,
4 that any of Class Representatives' or Settlement Class
5 Members' claims are with or without merit, that a litigation
6 class should or should not be certified, that damages
7 recoverable in the Actions would have been greater or less than
8 the Settlement Fund, or that the consideration to be given
9 pursuant to the Stipulation represents an amount equal to, less
10 than, or greater than the amount that could have or would have
11 been recovered after trial.

12 15. The Released Parties may file the Stipulation and/or this Order and
13 Judgment in any other action that may be brought against them in order to support
14 a defense or counterclaim based on principles of res judicata, collateral estoppel,
15 full faith and credit, release, good faith settlement, judgment bar or reduction, or
16 any other theory of claim preclusion or issue preclusion or similar defense or
17 counterclaim. The Parties may file the Stipulation and/or this Order and Judgment
18 in any proceedings that may be necessary to consummate or enforce the
19 Settlement Stipulation, the Settlement, or this Order and Judgment.

20 16. Except as otherwise provided herein or in the Stipulation, all funds
21 held by the Escrow Agent shall be deemed to be in *custodia legis* and shall remain
22 subject to the jurisdiction of the Court until such time as the funds are distributed
23 or returned pursuant to the Stipulation and/or further order of the Court. No funds
24 shall be distributed from the Net Settlement Fund to Settlement Class members,
25 except any Award to Lead Plaintiffs the Court may grant, until the time period to
26 appeal this Order has expired without the filing of a notice of appeal or all appeals
27 have been exhausted.

1 17. Without affecting the finality of this Order and Judgment in any way,
2 this Court hereby retains continuing exclusive jurisdiction over the Parties and the
3 Settlement Class Members for all matters relating to the Action, including the
4 administration, interpretation, effectuation, or enforcement of the Stipulation and
5 this Order and Judgment, including, without limitation, any application for fees
6 and expenses incurred in connection with administering and distributing the
7 Settlement proceeds to the Settlement Class Members.

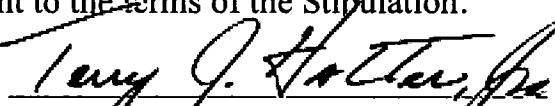
8 18. Without further order of the Court, Settling Defendants and Class
9 Representatives may agree to reasonable extensions of time to carry out any of the
10 provisions of the Stipulation.

11 19. There is no just reason for delay in the entry of this Order and
12 Judgment and immediate entry by the Clerk of the Court is expressly directed
13 pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

14 20. The finality of this Order and Judgment shall not be affected, in any
15 manner, by rulings that the Court may make on Class Counsel's application for an
16 award of attorneys' fees and expenses to Class Counsel or award to Class
17 Representatives.

18 21. In the event the Settlement is not consummated in accordance with
19 the terms of the Stipulation, then the Stipulation and this Order and Judgment
20 (including any amendment(s) thereof, and except as expressly provided in the
21 Stipulation or by order of the Court) shall be null and void, of no further force or
22 effect, and without prejudice to any Party, and may not be introduced as evidence
23 or used in any action or proceeding by any Person against the Parties or the
24 Released Parties, and each Party shall be restored to his, her, or its respective pre-
25 settlement litigation positions pursuant to the terms of the Stipulation.

26 DATED: JANUARY 30, 2024


HON. TERENCE J. HATTER, JR. UNITED
STATES DISTRICT JUDGE